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March 25, 1996

E. L. Sorensen, Jr.
Executive Director

Mr. [REDACTED]

Re: In Lieu Tax Exemptions

Dear Mr. [REDACTED]:

This is in response to your letter dated December 29, 1995, in which you request our opinion on whether or not your enumerated actions have been sufficient to "place [REDACTED] in contractual privity with Pacific Gas & Electric ("PG&E") and make [REDACTED] legally responsible for PG&E's billings" within the meaning of our letter of September 28, 1995.

To such end, since September 28, 1995, you have done the following:

1. You have "informed participating utilities of the legal responsibility" of [REDACTED]
2. You have caused the utilities to change "the current user addresses on invoicing to [REDACTED]" and
3. Finally, an attached "Fifth Modification has been made to the "Farm Management Agreement," providing as follows: (i) "[REDACTED] is legally liable for utility expenses . . . during the term of this Management Agreement;" and (ii) "Contracts with utility companies shall be in the name of [REDACTED]."

Mr.

March 25, 1996

Page 2

Based upon the above, it is our opinion that, due to the changed circumstances, it is now the owner of the farm, that is legally responsible for paying PG&E's monthly billings and that is in contractual privity with PG&E. Thus, the exemption from the Energy Resources Surcharge set forth in Energy Resources Surcharge Regulation 2316 would appear to be applicable to the owner's "consumption of electrical energy" from PG&E.

As to the Emergency Telephone Users Surcharge, if the owner is legally responsible for paying the "Service Supplier" for "intrastate telephone communications services," and in contractual privity with the "Service Supplier," then it would appear to qualify for the exemption from that surcharge set forth in Emergency Telephone Users Surcharge Regulation 2413.

As to the exemption certificates, the regulations do not prescribe an exact form nor enumerate any specifically required contents.

I hope the above satisfies your inquiry. If you have any additional questions, please call me.

Sincerely,

Robert W. Lambert (cmm)

Robert W. Lambert
Senior Staff Counsel

RWL/cmm

cc: Mr. Monte Williams (MIC:56)
Mr. William Kimsey (MIC:56)
Ms. Janet Vining (MIC:82)